HIGH COURT OF UTTARANCHAL AT NAINITAL

(Court's order whether the case is or not approved for reporting.)

(Chapter VIII Rule 32 (2)(b)

Description of the case.

W.P. No. 114/06 (S/S)

Jai Chand

vs

State of Uttaranchal and Others.

Approved for reporting.

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~~Not Approved for reporting~~

Date of decision 14.02.06

Initial of Judge

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 114 (SS) OF 2006

Jai Chand, S/o Sri Kishori Lal,
At present posted as Nayab Tehsildar,
Tehsil Chakrota, District Dehradun. .....Petitioner.

Versus

1. State of Uttaranchal, through Secretary.
   Revenue Department Dehradun, District – Dehradun.
2. Chief Revenue Commissioner, Uttaranchal Dehradun,
   District Dehradun.
3. Commissioner, Garhwal Division Pauri, District- Pauri
   Garhwal.
4. District Magistrate Dehradun, District Dehradun.
5. Additional District Magistrate (Administration),
   Dehradun, District Dehradun. .....Respondents.

Hon'ble Rajesh Tandon, J.

Heard Sri Rakesh Thapliyal, learned counsel for the petitioner and learned Standing Counsel for the State.

By the present writ petition the petitioner has prayed for a writ of mandamus directing the respondents to consider the candidature of the petitioner for regular promotion on the post of Nayab Tehsildar.

Brief facts giving rise to the present writ petition are that the petitioner was working as a Seasonal Collection Amin in District Dehradun and thereafter by an order dated 28.04.1987, he was appointed on substantive basis as Collection Amin as a reserved caste candidate. Thereafter on 18th may, 1993, the petitioner was treated to be confirmed on the post of Collection Amin since 30.06.1989.

The grievance of the petitioner is that he falls under the zone of consideration in accordance with Rules 5 and 17 of the rules framed under U.P. Subordinate Revenue Executive

Service (Nayab Tehsildar) Rules, 1944 and he has approached the District Magistrate for the purposes of grant of promotion in accordance with the roster of reservation of promotion. On his representation, the recommendation was made by the District Magistrate to the Commissioner Garhwal Region on 21st February, 2004.

The petitioner has submitted that on the recommendation, ad hoc promotion was made in favour of the petitioner for 89 days or till the regular incumbent is available on 11th June, 2004.

Subsequently, on 11th June, 2004, the petitioner was again granted ad hoc promotion on the post of Nayab Tehsildar for 89 days or till the regular incumbent is appointed. Said order was issued on 29th June, 2004.

The petitioner has submitted that since there is a clear vacancy of Nayab Tehsildar and therefore, he is entitled for regular promotion in accordance with the rule as a reserved category candidate. Petitioner has already made a representation in this regard. The statement of the petitioner is that he is already working on the post of Nayab Tehsildar is without any artificial break in pursuance of the ad hoc promotion given to the petitioner, which was further extended on 14th January, 2005, 4th June, 2005, 6th August, 2005 and 12th November, 2005. The petitioner has also referred rule 5 (4) of U.P. Subordinate Revenue Executive Service (Nayab Tehsildar) Rules, 1944, which provides as under:-

"5.(iv) By promotion from amongst such Collection Amins who have passed at least the intermediate Examination of the Board of High School and Intermediate Education, Uttar Pradesh or an examination recognized by the U.P. Government as equivalent thereto."

According to the case of the petitioner, the post of Collection Amin is a feeding cadre for the promotion for the Nayab Tehsildar and therefore, he clearly falls under the zone of consideration for the post of Nayab Tehsildar and number of vacancies of Nayab Tehsildars are available at present.

Admittedly the petitioner is already working on ad hoc basis on the post of Nayab Tehsildar, therefore, without entering into the merits of the controversy, the writ petition is disposed of at the admission stage directing the respondent no. 3 to consider the claim of the petitioner in accordance with the rules framed under U.P. Subordinate Revenue Executive Service (Nayab Tehsildar) Rules, 1944 within a period of four months. Till the representation is disposed of, the petitioner shall continue on the said post and the same shall be subject to the final disposal of the representation of the petitioner.

Subject to the aforesaid observations, writ petition is disposed of. No order to costs.

(Rajesh Tandon, J.)

14.02.2006

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